

## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby gives Notice of Intended Action to amend Chapter 4, “Employers,” Chapter 5, “Employees,” Chapter 11, “Application for, Modification of, and Termination of Benefits,” Chapter 12, “Calculation of Monthly Retirement Benefits,” Chapter 13, “Disability for Regular and Special Service Members,” Chapter 15, “Dividends,” and Chapter 16, “Domestic Relations Orders and Other Assignments,” Iowa Administrative Code.

IPERS proposes the following amendments to implement new contribution rates for regular and special service members beginning July 1, 2013; to clarify when IPERS coverage ends for employees who are employed in two IPERS covered positions at the same time; to correct a date in a subrule regarding bona fide retirement of licensed health care professionals as amended in 2012 Iowa Acts, House File 2465, section 21; to implement prior legislative changes in 2010 Iowa Acts, House File 2518, section 19, clarifying the IPERS benefit calculation for members vested by age and not service, and for members aged 70 and older receiving an in-service benefit; to correct an error in terminology in a subrule regarding fast-track review of a disability application; to clarify the time frame in which to review disability applicant files; to establish rules for payments to members and beneficiaries of the favorable experience dividend (FED) account balance when the account balance is not sufficiently funded; and to update several rules regarding IPERS' administration of domestic relations orders.

These amendments were prepared after consultation with IPERS' staff, IPERS' actuary and the Benefits Advisory Committee.

Any interested person may make written suggestions or comments on the proposed amendments on or before February 26, 2013. Such written suggestions or comments should be directed to the IPERS Administrative Rules Coordinator at IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117. Persons who wish to present their comments orally may contact the IPERS Administrative Rules Coordinator at (515)281-3081. Comments may also be submitted by fax to (515)281-0045 or by e-mail to [adminrule@ipers.org](mailto:adminrule@ipers.org).

Also, a public hearing will be held on February 26, 2013, at 9 a.m. at IPERS, 7401 Register Drive, Des Moines, Iowa. Persons may present their views either orally or in writing. At the hearing persons will be asked to give their names and addresses for the record and to confine their remarks to the subject matter of the amendments.

There are no waiver provisions included in the proposed amendments.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 97B.4 and 97B.15.

The following amendments are proposed.

ITEM 1. Amend paragraph **4.6(1)“b”** as follows:

*b.* Effective July 1, 2012, and every year thereafter, the contribution rates for regular members shall be publicly declared by IPERS staff no later than the preceding December as determined by the annual valuation of the preceding fiscal year. The public declaration of contribution rates will be followed by rule making that will include a notice and comment period and that will become effective July 1 of the next fiscal year. Contribution rates for regular members are as follows.

|               | Effective<br>July 1, 2012 | Effective<br>July 1, 2013 |
|---------------|---------------------------|---------------------------|
| Combined rate | 14.45%                    | <u>14.88%</u>             |
| Employer      | 8.67%                     | <u>8.93%</u>              |
| Employee      | 5.78%                     | <u>5.95%</u>              |

ITEM 2. Amend subrule 4.6(2) as follows:

**4.6(2)** Contribution rates for sheriffs and deputy sheriffs are as follows.

|               | Effective<br>July 1, 2008 | Effective<br>July 1, 2009 | Effective<br>July 1, 2010 | Effective<br>July 1, 2011 | Effective<br>July 1, 2012 | Effective<br>July 1, 2013 |
|---------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| Combined rate | <u>15.04%</u>             | 15.24%                    | 17.88%                    | 19.66%                    | 19.80%                    | <u>19.76%</u>             |
| Employer      | <u>7.52%</u>              | 7.62%                     | 8.94%                     | 9.83%                     | 9.90%                     | <u>9.88%</u>              |
| Employee      | <u>7.52%</u>              | 7.62%                     | 8.94%                     | 9.83%                     | 9.90%                     | <u>9.88%</u>              |

ITEM 3. Amend subrule 4.6(3) as follows:

**4.6(3)** Contribution rates for protection ~~occupation~~ occupations are as follows.

|               | Effective<br>July 1, 2008 | Effective<br>July 1, 2009 | Effective<br>July 1, 2010 | Effective<br>July 1, 2011 | Effective<br>July 1, 2012 | Effective<br>July 1, 2013 |
|---------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| Combined rate | <u>14.08%</u>             | 15.34%                    | 16.59%                    | 16.62%                    | 17.11%                    | <u>16.90%</u>             |
| Employer      | <u>8.45%</u>              | 9.20%                     | 9.95%                     | 9.97%                     | 10.27%                    | <u>10.14%</u>             |
| Employee      | <u>5.63%</u>              | 6.14%                     | 6.64%                     | 6.65%                     | 6.84%                     | <u>6.76%</u>              |

ITEM 4. Amend subrule 5.2(33) as follows:

**5.2(33)** ~~School employees~~ Employees who work in additional positions with additional duties, along with normal duties with the same employer, shall be considered covered employees until all of their compensated duties to their employer cease. (Examples include teacher/coach; teacher/summer driver's education instructor; and ~~Phase I, II, and III employment~~ city employee/paid firefighter.)

ITEM 5. Amend subrule 11.5(2), introductory paragraph, as follows:

**11.5(2)** *Bona fide retirement—licensed health care professionals.* For retirees whose first month of entitlement is no earlier than July 2004 and no later than June ~~2012~~ 2014, a retiree who is reemployed as a "licensed health care professional" by a "public hospital" does not have a bona fide retirement until all employment with covered employers is terminated for at least one calendar month. In order to receive retirement benefits, the member must file a completed application for benefits form before returning to any employment with a covered employer.

ITEM 6. Amend subrule 12.5(1) as follows:

**12.5(1)** For each member who is vested prior to July 1, 2012, ~~but~~ and is retiring prior to July 1, 2012, with less than four complete years of service, a monthly annuity shall be determined by applying the total reserve as of the effective retirement date (plus any retirement dividends standing to the member's credit on December 31, 1966) to the annuity tables in use by the system according to the member's age (or member's and contingent annuitant's ages, if applicable). If the member's retirement occurs before January 1, 1995, IPERS' revised 6.5 percent tables shall be used. If the member's retirement occurs after December 31, 1994, IPERS' 6.75 percent tables shall be used.

ITEM 7. Amend subrule 12.5(7) as follows:

**12.5(7)** For members ~~who first become vested~~ retiring after June 30, 2012, the money purchase benefit calculated pursuant to this rule shall be provided to members who are not vested by service as defined in Iowa Code section 97B.1A(25) "d."

ITEM 8. Amend rule 495—12.6(97B) as follows:

**495—12.6(97B) Recalculation for a member aged 70.** A member remaining in covered employment after attaining the age of 70 years may receive a retirement allowance without terminating the covered employment. A member who is in covered employment, attains the age of 70 and begins receiving a retirement allowance must terminate all covered employment before the member's retirement allowance can be recalculated to take into account service after the member's original FME. The termination of employment must be a true severance lasting at least 30 days. The formula to be used in recalculating such a member's retirement allowance depends on the date of the member's FME and the member's termination date, as follows:

If the member is receiving a retirement allowance with an FME prior to July 1, 2000, and terminates covered employment on or after January 1, 2000, the member's retirement formula for recalculation purposes shall be the formula in effect at the time of the member's termination from covered employment or, if later, the date the member applies for a recalculation.

In all other cases, the recalculation for a member aged 70 who retires while actively employed shall use the retirement formula in effect at the time of the member's FME.

Payments under this rule shall begin no earlier than the month following the month of termination, upon IPERS' receipt of a member's application for recalculation.

A member receiving a recalculation under this rule after June 30, 2012, will have the member's average covered wage calculated as follows. IPERS will calculate the average high three covered wage as of June 30, 2012. IPERS will next calculate the average high five covered wage at the time of the member's termination from covered employment or, if later, the date the member applies for a recalculation. IPERS will determine the benefit amount based on the calculation that produces the greatest benefit to the member.

ITEM 9. Amend subrule 13.2(6) as follows:

**13.2(6) Fast-track review.** IPERS' disability retirement benefits officer may refer any case to IPERS' chief benefits officer (CBO) for fast-track review. The ~~CEO~~ CBO or the ~~CEO's~~ CBO's designee may, based upon a review of the member's application and medical records, determine that the medical board be permitted to make its recommendations based solely upon a review of the application and medical records, without requiring the member to submit to additional medical examinations by, or coordinated through, the medical board.

ITEM 10. Amend subrule 13.2(7) as follows:

**13.2(7) Initial administrative determination.** The medical board's letter of recommendation, test results, and supporting notes, and the member's file shall be forwarded to IPERS. Except as otherwise requested by IPERS, the medical board shall forward hospital discharge summary reports rather than the entire set of hospital records. The complete file shall be reviewed by the system's disability retirement benefits officer, who shall, in consultation with the system's legal counsel, make the initial disability determination. Written notification of the initial disability determination shall be sent to the member and the member's employer within 14 business days after a complete file has been returned to IPERS for the initial disability determination.

ITEM 11. Adopt the following **new** subrules 15.2(6) and 15.2(7):

**15.2(6) Determination of sufficiency of FED reserve account.** The system is charged in Iowa Code section 97B.49F(2) "d" with determining whether the reserve account is sufficiently funded to make a distribution. The system shall make this determination in the following manner.

a. The system shall declare the value of the FED reserve account balance as specified in the Allocation of Net Assets Held in Trust in the financial statements for the fiscal year that ended immediately preceding a January FED payment. The value shall include, but is not limited to, investment income and expenses and certain noninvestment income that are properly recorded for the FED reserve balance based on standard accounting rules used to determine a final balance at the conclusion of a fiscal year.

b. The above-declared reserve account balance shall be compared to the total estimated FED payment for the following January as calculated pursuant to rule 495—15.2(97B) utilizing a 1 percent multiplier.

c. The reserve account shall be declared not sufficiently funded when the estimated FED payment as determined in paragraph “b” of this subrule is equal to or greater than the declared reserve account balance as defined in paragraph “a” of this subrule.

**15.2(7) Determination of FED distribution if reserve account is not sufficiently funded.**

a. When the system has determined pursuant to subrule 15.2(6) that the reserve account is not sufficiently funded, the system shall declare a multiplier to be used in the formula pursuant to rule 495—15.2(97B) that is best estimated to approximate a full distribution of the declared reserve account balance as of the preceding June 30 fiscal year end.

b. No investment gains or losses shall change this balance between July 1 and the FED payment in January of the fiscal year in which the remaining balance of the reserve account will be paid by IPERS.

c. Any remaining reserve account balance shall be credited among the membership groups in the net assets held in trust, and the reserve account balance will be zero at the end of the fiscal year in which a FED payment is made pursuant to this subrule.

d. Any funds the system collects from a FED payment to a member or beneficiary because of an erroneous FED payment made by IPERS shall be deposited in the IPERS trust fund.

e. Payments under this subrule will represent a final distribution of the balance of the reserve account as determined in rule 495—15.2(97B) effectively halting any future FED payment, unless and until the reserve account is funded again pursuant to subrule 15.2(1).

f. No claim or administrative appeal will be allowed under this subrule if made more than 30 calendar days following the date on which IPERS made a FED payment to a member or beneficiary based upon the date of the EFT or the date IPERS mailed a state warrant to the member or beneficiary.

g. No payment will occur after January 31 in the year of the FED payment under this subrule for any adjustment to any previous fiscal years’ FED payment to a member or beneficiary.

**ITEM 12. Amend paragraph 16.2(3)“a” as follows:**

a. IPERS uses the shared payment method for payments under a domestic relations order. IPERS will not create a separate account for the alternate payee. Payment to the alternate payee shall be in a lump sum if the member’s benefits are paid in a lump sum distribution or as monthly payments if the member’s benefits are paid under a retirement option. A member shall not be able to receive an actuarial equivalent (AE) under Iowa Code section 97B.48(1) unless the total benefit payable with respect to that member meets the applicable requirements. All divisions of benefits shall be based on the gross amount of monthly or lump sum benefits payable. Federal and state income taxes shall be deducted from the member’s and alternate payee’s respective shares and reported under their respective federal tax identification numbers. Unrecovered basis shall be allocated on a pro rata basis to the member and alternate payee.

**ITEM 13. Amend paragraph 16.2(3)“c” as follows:**

c. If a QDRO or an ADRO directs the member to name the alternate payee under the order as a designated beneficiary, and the member fails to do so, the provisions of the QDRO or ADRO awarding the alternate payee a share of the member’s death benefit shall be deemed, except as revoked or modified in a subsequent QDRO or ADRO, to operate as a beneficiary designation, and shall be given first priority by IPERS in the determination and payment of such member’s death benefits. Death benefits remaining after payments required by the QDRO or ADRO, to the extent possible, shall then be made according to the terms of the member’s most recent beneficiary designation. If a QDRO or an ADRO does not require the member to select an option, the member is allowed to select any option at retirement.

**ITEM 14. Amend paragraph 16.2(3)“g” as follows:**

g. A person who attempts to make IPERS a party or requires IPERS to appear as a witness to a domestic relations action in order to determine an alternate payee’s right to receive a portion of the benefits payable to a member shall be liable to IPERS for its costs and attorney’s fees.

ITEM 15. Amend paragraph **16.2(3)“k”** as follows:

*k.* If a QDRO or an ADRO requires the member to select an option with joint and survivor provisions (Option 4 or 6) and name the alternate payee as contingent annuitant, ~~acceptable the order~~ must state the percentage in Option 4 or 6 to be payable to the alternate payee as contingent annuitant (the currently available percentages under Option 4 or 6 are 25, 50, 75 and 100 percent). Acceptable birth proof for the alternate payee as the named contingent annuitant, pursuant to 495—subrule 11.1(2), ~~shall~~ must also be provided to IPERS prior to approval of the order ~~being approved~~ by IPERS.